

Serial No: 09/526,193  
Filed: 15 March 2000

F3  
cont- 45 225. (New) The process of claim <sup>4</sup>143 wherein said modulation is a decrease in transport.

### REMARKS

Based on the prior amendment and the present supplemental amendment, claims 112, 114-126, 131, 133, 135-137, 139-166, 168-176, 178-196 and 213-225 are pending in the case.

Claims 112, 114-126, 131, 133, 135-157, 159, 161-172, 176, 178 and 189-196 stand rejected. Claims 158, 160, 173-175, and 179-188 have been objected to.

Claims 112-134, 137-141, 146, 152-155, 164, 167, 170, 171, 177, 182, 183, 191, 195 and 196-212 (a total of 61 claims) have been cancelled without prejudice. In addition, new claims 213-225 (a total of 13 claims) have been added.

In accordance with the Examiner's request, Applicants have attached hereto a clean copy of the pending claims. A detailed description of the present amendments is also attached to this paper.

### Rejection Under 35 U.S.C. §102

Claim 166 was rejected under section 102(b) as anticipated by the Hamon reference, which shows anion efflux from mouse macrophages in the presence of zero or increasing concentrations of ABC1 inhibitors and a method for measuring relative percentage secretion of interleukin 1 from mouse macrophages and human monocytes in the presence of increasing concentrations of inhibitors. In response, Applicants have

Serial No: 09/526,193  
Filed: 15 March 2000

amended this claim to recite use of residues 1-60 of SEQ ID NO: 1 (which sequence does not appear in the prior art).

### **Rejection Under 35 U.S.C. §102/103**

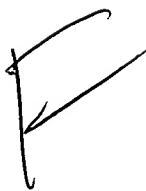
Applicants have reviewed the references cited in the case and believe that the claims as amended succeed in distinguishing over said references, both as to anticipation and obviousness. Thus, the claims presently in this case (with the enclosed amendments) are neither anticipated nor rendered obvious by any of the cited references.

Claim 135 and 137 were rejected under section 102 and/or 103 based on the Luciani et al (1996). This reference describes use of antibodies to bind to mouse ABC1 and the rejection urges that a showing of an antibody that binds to ABC1 ATP binding domain is a showing of an ABC1 modulating agent because it would prevent ATP binding and thus ATP hydrolysis as well. Applicant notes that there is more than one Luciani reference in the record and Applicant assumes that this reference (and not the Luciani et al (1994) reference) is being relied on by the Examiner.

In addition to the prior amendment of claim 135, Applicants have also amended claim 135 to further recite use of residues 1-60 of SEQ ID NO: 1, which is not recited in Luciani et al and would also not be rendered obvious by this reference.

### **New Claims**

New claims 213 – 223 were added and are directed to a method similar to claim 143 wherein a mammalian cell is used as the source of ABC1.



Serial No: 09/526,193

Filed: 15 March 2000

New claim 224 and 225 are dependent from claim 143 and simply recite the specific cases where modulation is an increase or a decrease, respectively, in lipid transport.

For the Examiner's convenience, a new complete claim set (including the amendments herein) is included as an attachment hereto.

The Commissioner is requested to charge any additional fees, or credit any refunds, to Deposit Acc't No. 03-0678.

**EXPRESS MAIL CERTIFICATE**

Express Mail Label No.

Deposit Date:

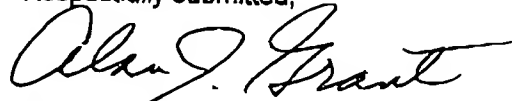
I hereby certify that this paper and the attachments hereto are being deposited today with the U.S. Postal Service "Express Mail Post Office To Addressee" service under 37 CFR 1.10 on the date indicated above addressed to:

Commissioner for Patents  
Washington, DC 20231

Alan J. Grant, Esq.

Date

Respectfully submitted,



Alan J. Grant, Esq.

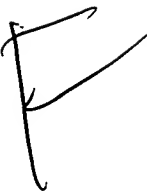
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Serial No: 09/526,193  
Filed: 15 March 2000

### AMENDED CLAIMS

135. (Twice Amended) A process for identifying a compound that modulates mammalian ABC1 (ABC1) polypeptide biological activity comprising contacting a compound with a human ABC1 polypeptide that has ABC1 biological activity and in the presence of adenosine triphosphate (ATP) under conditions promoting the biological activity of said ABC1 polypeptide and detecting a difference in said biological activity following said contacting relative to when said compound is not present wherein said biological activity is binding or hydrolysis of adenosine triphosphate (ATP) and wherein said human ABC1 (hABC1) comprises amino acids 1-60 of SEQ ID NO: 1,

thereby identifying an ABC1 modulating agent, ~~wherein said biological activity is binding or hydrolysis of adenosine triphosphate (ATP).~~

166. (Twice Amended) A process for identifying a compound that modulates mammalian ABC1 polypeptide biological activity for use in treating CAD comprising contacting a compound with a membrane comprising a human ABC1 polypeptide and interleukin-1 under conditions promoting transport of said interleukin-1 across said membrane and detecting a difference in said transport following said contacting relative to when said compound is not present and wherein said human ABC1 comprises amino acids 1-60 of SEQ ID NO: 1, thereby identifying a mammalian ABC1 modulating agent useful for treating CAD.